IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JERRY L. GOFF 1769 Briar Circle Bowling Green, KY 42103	)	CASE NO.:
	)	JUDGE:
Plaintiff,	)	**COMPLAINT**
-vs-	)	**(TRIAL BY JURY REQUESTED)**
TA OPERATING LLC, dba TRAVELCENTERS OF AMERICA c/o Its Statutory Agent Corporation Service Company 50 West Broad Street, Suite 1330 Columbus, OH 43215	)	
Defendant	)	

THE PARTIES

1. Plaintiff Jerry L. Goff ("Goff" or "Plaintiff") is a Kentucky citizen.

2. Defendant TA Operating LLC, dba TravelCenters of America ("TA" or "Defendant"), is and was at all times material hereto, a Delaware corporation conducting business in the United States and with its principal place of business in the State of Ohio.

3. Goff is a "person" and an "employee" as defined and used in the Americans with Disabilities Act, 42 U.S.C. § 1201, et seq. (the "ADA"), the Family Medical Leave Act, 29 U.S.C. § 2601 et seq. (the "FMLA") and Chapter 4112 of the Ohio Revised Code ("Chapter 4112").

4. Defendant is an "individual" and an "employer" as defined and used in the ADA, FMLA and Chapter 4112.

JURISDICTION AND VENUE

5. This suit is authorized and instituted pursuant to the ADA and FMLA. Thus, jurisdiction is conferred by 28 U.S.C. § 1331, based on federal questions presented by those statutes.

6. This case is between citizens of different states and the matter in controversy exceeds the sum of value of $75,000, exclusive of interest and costs. Accordingly, this Court also has jurisdiction in this matter pursuant to 28 U.S.C. § 1332.

7. This Court has supplemental jurisdiction over Plaintiff's Ohio state law claims under 28 U.S.C. § 1367, as the claims derive from the same nucleus of operative facts as its federal claims.

8. Goff has satisfied all administrative preconditions for filing suit under the ADA and has a valid Right to Sue notice issued from the Equal Employment Opportunity Commission ("EEOC"). A copy of the Right to Sue notice is attached hereto as Exhibit "A."

9. Venue is proper in the Northern District of Ohio pursuant to 28 U.S.C. § 1391 because, among other reasons, a substantial portion of the events giving rise to the claims below arose in this judicial district.

FACTUAL BACKGROUND

10. In 1979, Goff became employed by Minit Mart. Goff held many positions with Minit Mart, eventually being promoted to Director of Operations. In 2013, Minit Mart was acquired by TA in a stock purchase agreement. TA has over ten thousand employees throughout five hundred locations across America.

11. On December 17, 2013, Goff was given a formal offer by TA. While Goff retained the seniority that he earned from his position with Minit Mart, he was told that he had to relocate from Kentucky to Westlake, Ohio to assume a new position: Category Manager.

12. Goff has suffered from Type II diabetes for over ten years. Goff's condition caused diabetic foot ulcers that sometimes necessitated the use of a wheelchair. In December 2013, Goff developed a spot on his foot as a complication from diabetes that required surgery. As such, TA agreed to allow Goff to start his position in Westlake, Ohio in March 2014.

13. Goff's performance evaluation for 2014 was favorable, which was consistent with his performance feedback since 1979. Goff got a new supervisor, Kirk Matthews, after his 2014 performance evaluation.

14. In September 2015, Goff was told that he would need further medical treatment for his feet that had to be administered for 2.5 hours a day, Monday through Friday. Goff told his supervisor, Kirk Matthews ("Matthews"), he needed the treatment to prevent amputation of his feet but that he could still perform his job.

15. On October 30, 2015, Matthews informed Goff for the first time that his performance was deficient. The news shocked Goff since Plaintiff's sales figures had matched or exceeded other Category Managers. As part of this conversation, Matthews told Goff that he needed to work in the office every day from 8:00 am to 5:00 pm, thereby precluding Goff from receiving the medical treatment he needed to save his feet. Fearing for his job, Goff stopped getting his medical treatments. Ultimately, subsequent to his termination from employment, Goff required amputation from below his left knee.

16. On November 5, 2015, Matthews gave Goff a written performance evaluation that criticized Goff for not answering emails, not working enough hours and not meeting financial

goals. Goff was told that he had a few weeks to create an action plan to improve his financial performance, despite the fact that Goff's categories had exceeded prior year profits by over two million dollars in the same locations. Matthews approved the action plan.

17. On December 11, 2015, Defendant terminated Goff's employment. Goff was never afforded the time to implement his action plan.

COUNT I
(Disability Discrimination – O.R.C. §4112.02)

18. At all times material herein, Plaintiff suffered from an impairment and/or was regarded as suffering from an impairment within the meaning of Section 4112.01(A)(16)(a) of the Ohio Revised Code.

19. At all times material herein, Plaintiff was a qualified individual with a disability within the meaning of Section 4112.01(A)(13) of the Ohio Revised Code.

20. Defendant knew Plaintiff was disabled and/or regarded him as disabled.

21. Defendant was aware of the difficulties suffered by Plaintiff as a result of his disability.

22. Defendant discriminated against Plaintiff because of his disability by terminating his employment and replacing him with a non-disabled individual and/or by otherwise discriminating against him in the terms, privileges and conditions of employment.

23. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and will continue to suffer economic and non-economic damages, including but not limited to physical injuries, serious emotional distress and the loss of salary, back pay, front pay, benefits and other terms, privileges and conditions of employment for which Defendant is liable pursuant to Section 4112.99.

24. Defendant's conduct was willful, wanton, reckless and/or malicious for which Defendant is liable for punitive damages and reasonable attorneys' fees and costs.

COUNT II
(Disability Discrimination – Americans with Disabilities Act)

25. Goff incorporates all allegations in the paragraphs above as if fully rewritten herein.

26. This claim is brought under federal law, pursuant to 42 U.S.C. §12101, *et seq.*, and defined in 42 U.S.C. § 12101.

27. At all times material herein, Plaintiff was disabled, or regarded as disabled, as defined in 42 U.S.C. § 12102.

28. Plaintiff is an otherwise qualified individual, as he was able to perform the essential functions of his job, with or without accommodations.

29. Defendant knew or had reason to know Plaintiff suffered from a disability, and/or regarded him as disabled.

30. Defendant was aware of the difficulties suffered by Plaintiff as a result of his disability.

31. Defendant treated Plaintiff less favorably than other similarly situated employees without disabilities.

32. Defendant discriminated against Plaintiff because of his disability by terminating his employment and replacing him with a non-disabled individual, and/or by otherwise discriminating against him in the terms, privileges and conditions of employment.

33. Defendant's alleged reason(s) for terminating Plaintiff's employment was pretext for discrimination.

34. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and will continue to suffer economic and non-economic damages, including but not limited to physical injuries, serious emotional distress and the loss of salary, back pay, front pay, benefits and other terms, privileges and conditions of employment for which Defendant is liable.

35. Defendant's conduct was malicious and with reckless indifference to Plaintiff's rights, for which Defendant is liable for punitive damages and reasonable attorneys' fees and costs.

COUNT III
(Failure to Accommodate – O.C.R. §4112.02)

36. Plaintiff reasserts and incorporates all allegations in the paragraphs above as if fully rewritten herein.

37. At all times herein, Plaintiff suffered from an impairment within the meaning of Section 4112.01 of Ohio Revised Code.

38. At all times material herein, Plaintiff was a qualified individual with a disability within the meaning of Section 4112.01 of Ohio Revised Code.

39. Defendant knew or had reason to know Plaintiff suffered from a disability and/or regarded him as disabled.

40. Plaintiff requested a reasonable accommodation for his disability when he asked his employer to be allowed to receive medical treatment during the morning hours of work.

41. Such reasonable accommodations were possible for Defendant to provide.

42. Defendant violated Section 4112.02 of Ohio Revised Code by failing to accommodate Plaintiff's disability, by retaliating against Plaintiff for seeking a reasonable accommodation, and by failing to engage in a good faith interactive process to determine an objectively reasonable accommodation for Plaintiff's disability.

43. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and will continue to suffer economic and non-economic damages, including but not limited to physical injury, pain and suffering, back pay, front pay and loss of salary, benefits and other terms, privileges and conditions of employment for which Defendant is liable pursuant to Section 4112.99.

44. Defendant's conduct was willful, wanton, reckless and/or malicious for which Defendant is liable for punitive damages and reasonable attorneys' fees and costs.

COUNT IV
(Failure to Accommodate – Americans with Disabilities Act)

45. Plaintiff reasserts and reincorporates all allegations in the paragraphs above as if fully rewritten herein.

46. At all times material herein, Plaintiff was disabled, or regarded as being disabled, as defined in 42 U.S.C. § 12102.

47. Defendant knew or had reason to know that Plaintiff suffered from a disability, and/or regarded him as disabled.

48. Plaintiff was an otherwise qualified individual with a disability.

49. Plaintiff requested a reasonable accommodation for his disability when he asked his employer to be allowed to receive medical treatment during the morning hours of work.

50. Said accommodation was reasonable in that the request did not impose an undue burden on Defendant and was not essential to Plaintiff's position.

51. Defendant violated ADA by failing to accommodate Plaintiff's disability by retaliating against Plaintiff for seeking a reasonable accommodation, and by failing to engage in a good faith interactive process to determine an objectively reasonable accommodation for Plaintiff's disability.

52. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and will continue to suffer economic and non-economic damages, including but not limited to physical injury, pain and suffering, back pay, front pay and loss of salary, benefits and other terms, privileges and conditions of employment for which Defendant is liable.

53. Defendant's conduct was malicious and with reckless indifference to Plaintiff's rights, for which Defendant is liable for punitive damages and reasonable attorneys' fees and costs.

COUNT V
(Failure to Extend Leave Under the FMLA)

54. Plaintiff reasserts and incorporates all allegations in the paragraphs above as if fully rewritten herein.

55. TA qualifies as an "employer" as that term is defined in the FMLA, 29 U.S.C. § 2611(4), and that Goff is an "eligible employee" as that term is defined in the FMLA, 29 U.S.C. § 2611(2).

56. During the course of his employment, Goff suffered from one or more serious health conditions within the meaning of 29 U.S.C. § 2611, and was entitled to leave as defined in the FMLA, 29 U.S.C. § 2612(1).

57. Goff should have been offered an intermittent and/or reduced schedule, as defined in the FMLA, to cover the time Goff need to receive treatment during the morning hours at work. *See* CFR § 203 and 825-205.

58. Goff was denied his entitlement to leave under the FMLA.

59. TA is responsible for not offering and/or interfering with Goff's right to FMLA leave under the FMLA, 29 U.S.C. § 2617(a).

60. As a result of Defendant's conduct, Goff has incurred and is now incurring a loss of wages, as well as pre-judgment interest, attorneys' fees and costs, all within the meaning of FMLA, 29 U.S.C. § 2617.

61. Defendant's conduct was willful and not undertaken in good faith and renders Defendant liable for liquidated damages and related costs and expenses in accordance with 29 U.S.C. § 2617.

WHEREFORE, Plaintiff, Jerry Goff, seeks judgment against TA in an amount in excess of $75,000 to fully, fairly and justly compensate him for injury, damage and loss, and respectfully prays that this Court enter judgment in his favor and award his past and future economic and non-economic compensatory damages, front pay, fringe benefits, consequential damages, incidental damages, punitive damages, liquidated damages, interest, all reasonable attorneys' fees, costs and expenses and any additional legal or equitable relieve available under law, including but not limited to back pay, future losses, reinstatement and promotion.

A TRIAL BY JURY IS HEREBY REQUESTED.

Respectfully submitted,

/s/ *Ann-Marie Ahern*
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